

REMARKS

Without acquiescing to the appropriateness of the rejections in the Office Action dated October 2, 2002, claims 18-21 have been amended. Entry of the amendments, reconsideration of the application, and allowance of all claims pending herein it is respectfully requested in view of the remarks below. Claims 2, 3, 6-9, and 18-21 are now pending.

Rejections Under 35 U.S.C. § 103

Claims 2, 9, and 18-21 have been rejected under 35 U.S.C. § 103(a) as being obvious over the 1992 Wisniewski and Wu article in view of either Japanese Reference No. 63-296,831 or Tannenbaum (U.S. Patent No. 6,299,324). Specifically the Office Action alleges that the Wisniewski and Wu article teaches a shaker platform and heater. The Japanese Reference is alleged to disclose a shaker platform which allows a table to oscillate and Tannenbaum is alleged to disclose a reciprocating shaker platform which utilizes rollers.

Claim 18 has been amended to recite a method for thawing a frozen biopharmaceutical solution which includes heating the biopharmaceutical solution, when at least a portion of the biopharmaceutical solution is frozen. The heating is performed using a heating element coupled to a container which contains the biopharmaceutical solution. Oscillatory motion is induced to the biopharmaceutical solution to thaw the at least a portion of the biopharmaceutical solution using an oscillatory driver adapted to be coupled to the biopharmaceutical solution. The driver inducing the oscillatory motion rolls the container from a first position to a second position along, and in contact with, a surface, and the driver rolls the container a distance from the second position toward the first position along, and in contact with, the surface.

As described in previous Responses, the Wisniewski and Wu article discloses a mechanical shaker platform being used to provide agitation during the thawing. However, there is no disclosure, teaching, nor suggestion of a container holding biopharmaceutical solution being rolled along, and in contact with, a surface from a first position to a second position. Further, there is no teaching, disclosure, nor suggestion of a container holding a

biopharmaceutical solution being rolled a distance from the second position toward the first position along, and in contact with, the surface. Instead, the Wisniewski and Wu reference merely discloses a shaker table providing agitation during thawing, but does not disclose rolling a container holding biopharmaceutical material along, and in contact with, a surface from a first position to a second position, and rolling the container from the second position toward the first position along, and in contact with, the surface.

The Japanese Reference discloses a shaker table which may roll in one direction on a supporting truck movable in a second direction. However, there is no disclosure of a container of biopharmaceutical material being rolled along, and in contact with, a surface from a first position to a second position, and the container being rolled a distance from the second position toward the first position along, and in contact with, the surface. Instead, the platform appears to be movable by a linkage in one direction and it appears to be capable of rolling in a second direction with a specimen being placed on the platform. A container received on the platform would be movable on such movable platform but the container would be stationary relative to the platform itself during any such movement. The stationary nature of the container relative to the platform is in contrast with the recitation in claim 18 of the present application in which the container moves along, and in contact with, the surface that it is received on. Thus, a combination of Wisniewski and Wu, and Japanese Reference No. 63-296831, could not result in claim 18 of the present application because there is no disclosure in either of these references of a container of biopharmaceutical material being moved along, and in contact with, a surface from a first position to a second position, and the container being moved from the second position toward the first position along, and in contact with, the surface. Further, even if the references were combined as suggested in the Office Action, i.e., the tank of Wisniewski and Wu was oscillated on the rollers of the Japanese Reference, the features of claim 18 as described would not result, because the container would be stationary relative to the surface on which it would be received. Therefore, because the subject matter of claim 18 of the present application is not disclosed, taught, nor suggested by the combination of the Wisniewski and Wu article and Japanese Reference No. 63-296831, claim 18 is believed not to be obvious over such references. Further, the other independent claims are believed not to be obvious for the same reasons and

their own additional features. Thus, these claims along with the corresponding dependent claims are believed to be allowable.

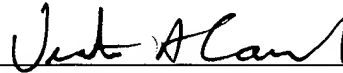
Tannenbaum discloses a shaker table having a conveyor belt apparatus for moving a table top thereof. However, there is no disclosure of a container of biopharmaceutical material being moved along, and in contact with, a surface. Instead, the platform in Tannenbaum may receive a specimen, but such specimen would move back and forth with, and stationary relative to, the platform and not along, and in contact with, a surface. This is in contrast to the movement of the container recited in claim 18 of the present application. Further, the suggested combination of Wisniewski and Wu with Tannenbaum would also not result in claim 18 of present application since neither Wisniewski and Wu, nor Tannenbaum, disclose a container moving along, and in contact with, a surface from a first position to a second position, and the container being moved along, and in contact with, the surface from the second position toward the first position. More specifically, the oscillation of the container of Wisniewski and Wu on the device of Tannenbaum would not result in the subject matter recited in claim 18 of the present application since the container of Wisniewski and Wu would be stationary relative to the surface on which it would be received and thus could not be moved in the manner recited in claim 18. Accordingly, claim 18 is believed not to be obvious over these references. The other independent claims are believed not to be obvious for the same reasons, while the dependent claims are believed not to be obvious for these reasons and for their own additional features. Thus, the independent and dependent claims are believed to be allowable.

Regarding the German reference DE 3047784, Applicant is not in possession of such reference, nor a translation thereof, and is not required to obtain such translation as described previously. Applicant has provided U.S. Patent No. 4,473,739 which appears to be related to and discloses the same subject matter as the German reference.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Examiner is invited to telephone Applicant's undersigned attorney at the telephone number provided.

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